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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TERRY T. SNIPES, SR., an individual,  
Plaintiff,  
v.  
DOLLAR TREE DISTRIBUTION, INC.,  
a Virginia corporation, and DOES 1  
through 50, inclusive,  
Defendants.

No. 2:15-cv-00878-MCE-DB

**MEMORANDUM AND ORDER**

Through the present class action, Plaintiff Terry T. Snipes, Sr. ("Plaintiff") challenges various wage and hour practices utilized by his employer, Defendant Dollar Tree Distribution, Inc. ("Defendant" or "Dollar Tree") both on his own behalf and on behalf of others similarly situated. According to Plaintiff, Dollar Tree's uniform timekeeping practices wrongfully excluded compensable time and operated to deprive employees of their legally guaranteed uninterrupted thirty-minute, duty-free, meal period.

Dollar Tree now moves to dismiss Plaintiff's Ninth through Nineteenth Causes of action, which are brought pursuant to California's Private Attorney's General Act ("PAGA") Cal. Lab. Code § 2968, et seq., on grounds that PAGA violates the Separation-of-Powers doctrine contained in the federal and California constitutions and those claims

1 consequently are subject to dismissal under Federal Rule of Civil Procedure 12(c). As  
2 set forth below, that Motion is DENIED.<sup>1</sup>

### 3 4 STANDARD

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6 Under Federal Rule of Civil Procedure 12(c), “a party may move for judgment on  
7 the pleadings” after the pleadings are closed “but early enough not to delay trial.” A  
8 motion for judgment on the pleadings pursuant to Rule 12(c) challenges the legal  
9 sufficiency of the opposing party's pleadings. See, e.g., Westlands Water Dist. v.  
10 Bureau of Reclamation, 805 F. Supp. 1503, 1506 (E.D. Cal. 1992). Any party may move  
11 for judgment on the pleadings under Rule 12(c) after the pleadings are closed but within  
12 such time as to not delay trial.

13 A motion for judgment on the pleadings should only be granted if “the moving  
14 party clearly establishes on the face of the pleadings that no material issue of fact  
15 remains to be resolved and that it is entitled to judgment as a matter of law.” Hal Roach  
16 Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1550 (9th Cir. 1989).  
17 Judgment on the pleadings is also proper when there is either a “lack of cognizable legal  
18 theory” or the “absence of sufficient facts alleged under a cognizable legal theory.”  
19 Balistreri v. Pacifica Police Dept., 901 F.2d 696, 699 (9th Cir. 1988). In reviewing a  
20 Rule 12(c) motion, “all factual allegations in the complaint [must be accepted] as true  
21 and construe[d] . . . in the light most favorable to the non-moving party.” Fleming v.  
22 Pickard, 581 F.3d 922, 925 (9th Cir. 2009). Judgment on the pleadings under Rule 12(c)  
23 is warranted “only if it is clear that no relief could be granted under any set of facts that  
24 could be proved consistent with the allegations.” Deveraturda v. Globe Aviation Sec.  
25 Servs., 454 F.3d 1043, 1046 (9th Cir. 2006) (internal citations omitted).

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28 <sup>1</sup> Having determined that oral argument would not be of material assistance, the Court ordered this  
Motion submitted on the briefs in accordance with E.D. Local Rule 230(g).



1 Plaintiff, and that the absence of such power in the PAGA framework developed by the  
2 legislature impinges on the executive’s traditional power to police statutory violations.  
3 Thus, according to Defendant, PAGA violates fundamental separation-of-power  
4 precepts.

5 The separation-of-powers doctrine recognizes, as fundamental to our form or  
6 government, “[t]he principle that the various powers or government must be assigned to  
7 [their] coordinate branches;” namely legislative, executive and judicial. The doctrine has  
8 been “inherent in the structure of the [federal] Constitution. . .” U.S. ex rel. Kelly v. The  
9 Boeing Company, 9 F.3d 743, 749 (9th Cir. 1993). In addition, the doctrine is expressly  
10 enumerated within the California Constitution at Art. III, § 3 [“the powers of state  
11 government are legislative, executive and judicial. Persons charged with the exercise of  
12 one power may not exercise either of the others except as permitted by this  
13 Constitution.”]. The primary purpose of the separation-of-powers doctrine is “to prevent  
14 the combination in the hands of a single person or group of the basic or fundamental  
15 powers of government.” Parker v. Riley, 18 Cal. 2d 83, 89 (1941).

16 Defendant’s Motion initially fails insofar as it attempts to invalidate PAGA on  
17 federal separation-of-powers grounds. For over a century, the United States Supreme  
18 Court has held that the federal separation-of powers doctrine does not apply against the  
19 states. Stop the Beach Renourishment, Inc. v. Florida Dept. of Environmental  
20 Protection, 560 U.S. 702, 719 (2010) (reaffirming Dreyer v. Illinois, 187 U.S. 71, 82-83  
21 (1902). Because PAGA is a state action that by its terms bears only upon the allocation  
22 of state, and not federal, powers, this well-established precedent forecloses Defendant’s  
23 argument that PAGA fails under a federal separation-of-powers analysis.

24 Defendant fares no better in arguing that PAGA runs afoul of the separation-of-  
25 powers guaranteed by the California Constitution. While Defendant contends the  
26 California Supreme Court, in Iskanian, raised but did not resolve the question, that  
27 averment is incorrect.

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1            Iskanian, like the present case, arose in the context of an employee’s putative  
2 class action against his employer for wage and hour violations. Iskanian held  
3 unequivocally that “our case law contains no indication that the enactment of *qui tam*  
4 statutes is anything but a legitimate exercise of legislative authority,” with such actions  
5 enhancing “the state’s ability to use [its] scarce resources by enlisting willing citizens in  
6 the task of civil enforcement.” Id. at 390. As indicated above, Iskanian squarely held  
7 that PAGA is “a type of *qui tam* action.” Id. at 382. Even more significantly, Iskanian  
8 went on to reject the claim that “PAGA violates the separation-of-powers principle under  
9 the California Constitution.” Id. at 391. The court made that determination after  
10 discussing the nature and purpose of *qui tam* actions. Id. at 390-91. Moreover, Iskanian  
11 recognized that even if PAGA and other *qui tam* actions occasioned some minimum  
12 interference with governmental functions, the separation-of-powers doctrine nonetheless  
13 “does not create an absolute or rigid division of [such] functions.” Id. at 390-91 (quoting  
14 Lockyer v. San Francisco, 33 Cal. 4th 1055, 1068 (2004). In fact, the court recognized  
15 that “substantial interrelatedness . . . lies at the heart of the constitutional theory of  
16 ‘checks and balances’ that the separation-of-powers doctrine is intended to serve.” Id. at  
17 390 (quoting Superior Court v. Mendocino, 13 Cal. 4th 45, 52-53 (1996).

18            Given Iskanian’s unequivocal holding that PAGA does not violate the California  
19 Constitution’s separation-of-powers provisions, Defendant’s argument that the scope of  
20 that holding should be restricted is unavailing.<sup>2</sup> Moreover, the fact that the California  
21 Supreme Court has spoken on the issue precludes this Court from revisiting that  
22 determination. In assessing the extent of state constitutional guarantees, the California  
23 judiciary is the court of last resort. See Raven v. Deukmejian, 52 Cal. 3d 336, 354 (Cal.  
24 1990).

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27            <sup>2</sup> Defendant argues that the precise separation-of-powers concerns raised in this Motion were  
28 never presented to the California Supreme Court in Iskanian. The broad sweep of Iskanian’s holding,  
however, particular after the court’s thorough discussion of just how PAGA operates, belies any contention  
that Iskanian’s approval of PAGA on separation-of-powers grounds should somehow be limited.

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**CONCLUSION**

Based on the foregoing, Defendant's Motion to Dismiss (ECF No. 44) is DENIED.  
IT IS SO ORDERED.

Dated: November 9, 2017

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE